

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VICTOR RUIZ,
Plaintiff,

v.

ELKO COUNTY JAIL, et al.,
Defendants.

Case No. 3:23-cv-00297-MMD-CLB

ORDER

On July 14, 2023, this Court ordered Plaintiff to either pay the full \$402 filing fee for this civil-rights action or file a fully complete application to proceed *in forma pauperis* by September 12, 2023. (ECF No. 3). Plaintiff timely filed an application to proceed *in forma pauperis*, but it is incomplete because Plaintiff did not submit a financial certificate that has been signed by a jail official and an inmate account statement for the previous six-month period with his application. (See ECF No. 4).

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

If Plaintiff is having difficulty obtaining the required financial certificate and inmate account statement for the previous six-month period from jail officials, then Plaintiff will

1 file the first three pages of the application to proceed *in forma pauperis* on this Court's
2 approved form together with a declaration detailing when he requested the documents,
3 who he spoke to about the status of the documents, who he followed up with after he did
4 not receive the documents, and their responses. Plaintiff's declaration will include dates
5 of his requests, dates of his follow-up requests, names of the jail officials that he spoke
6 to about the matter, and their responses. If Plaintiff's declaration demonstrates that he
7 has done all that was possible to acquire the documents from jail officials, the Court will
8 consider his application to proceed *in forma pauperis* complete.¹

9 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's incomplete application to
10 proceed *in forma pauperis* (ECF No. 4) is **denied** without prejudice.

11 **IT IS FURTHER ORDERED** that **on or before Friday, November 3, 2023**, Plaintiff
12 will either pay the full \$402 filing fee for a civil action or file a new fully complete application
13 to proceed *in forma pauperis* with all three required documents: (1) a completed
14 application to proceed *in forma pauperis* with the inmates two signatures on page 3, (2) a
15 financial certificate that is properly signed both by the inmate and a prison or jail official,
16 and (3) a copy of the inmate's prison or jail trust fund account statement for the previous
17 six month period.

18 **IT IS FURTHER ORDERED** that **on or before Friday, November 3, 2023**, if
19 Plaintiff is not able to obtain his financial certificate and inmate trust fund account
20 statement from prison or jail officials, Plaintiff will file the first three pages of the application
21 to proceed *in forma pauperis* together with a declaration detailing the efforts he took to
22 acquire the financial certificate and inmate account statement from prison or jail officials.


23 **IT IS FURTHER ORDERED** that if Plaintiff does not either pay the full filing fee or
24 file a fully complete application to proceed *in forma pauperis* with all three documents, or,
25 alternatively, file the first three pages of the application to proceed *in forma pauperis* and
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27 ¹ Plaintiff must still submit the first three pages of the application to proceed *in*
28 *forma pauperis* on this Court's approved form with his declaration. If Plaintiff does not
submit the first three pages of the application to proceed *in forma pauperis* with the
declaration, the Court will recommend dismissal of this case without prejudice for Plaintiff
to open a new case when he is able to acquire the required documents.

1 a declaration detailing the efforts he took to acquire the financial certificate and inmate
2 account statement from prison or jail officials, or pay the full \$402 filing fee for a civil action
3 on or before **Friday, November 3, 2023**, the Court will recommend that this action be
4 dismissed without prejudice. Dismissal without prejudice allows Plaintiff to refile his case
5 with the Court, under a new case number, when he can either pay the required filing fee
6 or file a complete application to proceed *in forma pauperis*.

7 **IT IS FURTHER ORDERED** that the Clerk of the Court will resend Plaintiff Victor
8 Ruiz the approved form application to proceed *in forma pauperis* for an inmate and
9 instructions for the same and retain the complaint (ECF No. 1-1) but not file it at this time.

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11 Dated this 4th day of October 2023.

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14 UNITED STATES MAGISTRATE JUDGE
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